

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 3672

IN THE MATTER OF:

Served April 11, 1991

Application of HENRY L. EPPS, JR., )  
for an Expanded Certificate of )  
Public Convenience and Necessity )  
No. 51 -- Special Operations )

Case No. AP-90-38

Application of HENRY L. EPPS, JR., )  
to Transfer Certificate of Public )  
Convenience and Necessity No. 51 to )  
EPPS TRANSPORTATION COMPANY, INC. )

Case No. AP-90-39

Investigation Concerning Issuance )  
of Certificates of Authority )

Case No. MP-91-02

By application tendered for filing September 6, 1990, and completed October 16, 1990, Henry L. Epps, Jr. (Mr. Epps or applicant), seeks an expanded Certificate of Public Convenience and Necessity No. 51 authorizing transportation of transportation-disadvantaged 1/ persons between points in the Metropolitan District, restricted against transportation solely within the Commonwealth of Virginia. This application has been docketed as Case No. AP-90-38.

Certificate of Public Convenience and Necessity No. 51 currently authorizes the following transportation:

IRREGULAR ROUTES

SPECIAL OPERATIONS, transporting persons confined to wheelchairs:

Between medical treatment facilities located inside the Capital Beltway, on the one hand, and, on the other, points inside the Capital Beltway.

RESTRICTIONS: The service authorized herein is restricted to the transportation of non-ambulatory participants in the Medicaid program of the District of Columbia, and is further restricted to

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1/ "Transportation-disadvantaged persons are those individuals who by reason of age, physical or mental disabilities are unable without special facilities or special planning or design to utilize transportation facilities and services as effectively as persons who are not so affected." Order No. 2015, served August 7, 1979, at pp. 3 and 4.

transportation in van-type vehicles specially equipped with ramps and mechanical devices for securing wheelchairs in transit, and is further restricted against transportation solely within the Commonwealth of Virginia.

By application filed September 6, 1990, in Case No. AP-90-39, Mr. Epps seeks authority to transfer Certificate No. 51 to Epps Transportation Company, Inc. (Epps, Inc.), a Maryland close corporation, the stock of which is owned in equal parts by Mr. Epps, and Bessie L. Epps.

By Order No. 3577, served October 16, 1990, the matters in Case Nos. AP-90-38 and AP-90-39 were consolidated for public hearing. In Case No. AP-90-38 the issues to be determined are (1) whether applicant is fit, willing, and able to perform the proposed service properly and comply with the Compact and the Commission's rules and regulations and (2) whether the public convenience and necessity require the proposed service. In Case No. AP-90-39 the issue to be determined is whether the transfer is consistent with the public interest. A hearing in the consolidated cases was held on November 29, 1990. Neither application was protested.

On February 1, 1991, certain amendments to the Compact <sup>2/</sup> became effective. The Compact, as amended, Title II, Article XI, Section 6 provides:

6. (a) A person may not engage in transportation subject to this Act unless there is in force a 'Certificate of Authority' issued by the Commission authorizing the person to engage in that transportation.

(b) On the effective date of this Act a person engaged in transportation subject to this Act under an existing 'Certificate of Public Convenience and Necessity' or order issued by the Commission shall be issued a new 'Certificate of Authority' within 120 days after the effective date of this amendment.

(c)(i) Pending issuance of the new Certificate of Authority, the continuance of operations shall be permitted under an existing certificate or order issued by the Commission which will continue in effect on the effective date of this Act.

Certificate of Public Convenience and Necessity No. 51 issued to Henry L. Epps, Jr., authorizes only irregular route transportation. Accordingly, Mr. Epps is entitled to be issued a Certificate of Authority authorizing irregular route transportation coextensive with

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<sup>2/</sup> See Public Law 101-505, 104 Stat. 1300.

the Commission's jurisdiction in the Washington Metropolitan Area Transit District. Certificate of Authority No. 51 will supersede Certificate of Public Convenience and Necessity No. 51.

Evidence of insurance on file with the Commission covering the operations of Henry L. Epps, Jr., shows coverage only in the amount required for vehicles with a manufacturer's designed seating capacity of 15 persons or fewer, including the driver. Therefore, Certificate of Authority No. 51 will be so restricted. Such restriction is without prejudice to the right of the holder of Certificate of Authority No. 51 to file an appropriate application to have the restriction removed upon the filing of proper evidence of insurance covering the operation of larger vehicles.

Conversion of Mr. Epps' Certificate of Public Convenience and Necessity into a Certificate of Authority moots the need to decide the issues raised in Case No. AP-91-38 and leaves only the matter of the transfer raised in Case No. AP-91-39.

Case No. AP-91-39 was filed prior to the effective date of the Compact amendments discussed above. At the time the case was filed, it was governed by the Compact, Title II, Article XII, Section 4(h) requiring that a transfer be approved only when the Commission finds the transfer to be consistent with the public interest. The case will be decided pursuant to the Compact (as amended), Title II, Article XI, Section 11(a) requiring the same finding. Turning now to the merits of the transfer application, the Commission finds that no issue exists as to the dormancy of the certificate to be transferred. Mr. Epps (transferor) is a sole proprietor, and Epps, Inc. (transferee) is a close corporation wholly and equally owned and controlled by Mr. Epps and his mother. The record is devoid of any evidence that the transfer, per se, will affect rates or service or is in any way contrary to the public interest. Accordingly, the Commission finds that the requested transfer of Certificate of Public Convenience and Necessity No. 63 is consistent with the public interest, and, based upon the evidence of record, the application will be granted.

Certificate of Public Convenience and Necessity No. 51 will be transferred from Mr. Epps to Epps, Inc. Certificate of Public Convenience and Necessity No. 51, once transferred, will be converted to Certificate of Authority No. 51. As discussed above, Certificate of Authority No. 51 will be issued to Epps, Inc.

**THEREFORE, IT IS ORDERED:**

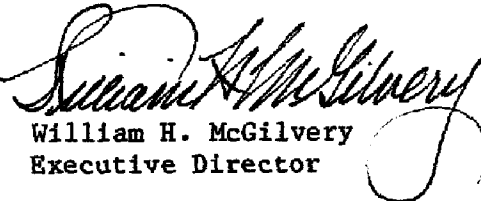
1. That the application of Henry L. Epps, Jr., to transfer Certificate of Public Convenience and Necessity No. 51 to Epps Transportation Company, Inc., is hereby granted.

2. That Epps Transportation Company, Inc., is hereby directed, within 30 days of the date of this order or such additional time as the Commission may direct or allow, to (a) acquire and file evidence of insurance pursuant to Commission Regulation No. 58 and Order No. 3623;

(b) file five copies of its tariff(s) in accordance with Commission Regulation No. 55; (c) file an equipment list stating the make, model, serial number, vehicle number, license plate number (with jurisdiction), and seating capacity of each vehicle to be used in revenue operations in the Metropolitan District; (d) file, for each vehicle to be used in revenue operations in the Metropolitan District, evidence of ownership or a lease as required by Commission Regulation No. 62; and (e) file its official business address as discussed in Commission Regulation No. 68.

3. That upon compliance with the requirements of the preceding paragraph and acceptance of the required materials by the Commission, Certificate of Authority No. 51 will be issued to Epps Transportation Company, Inc., in the form and as worded in the Appendix to this order.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS WORTHY, SCHIFTER, AND SHANNON:

  
William H. McGilvery  
Executive Director

CERTIFICATE OF AUTHORITY NO. 51  
Epps Transportation Company, Inc.  
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IT IS A FURTHER CONDITION of this certificate of authority that the carrier named hereon shall (a) provide safe and adequate transportation service, equipment, and facilities and (b) observe and enforce Commission regulations.

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

CERTIFICATE OF AUTHORITY

NO. 51

Epps Transportation Company, Inc.  
5603 Avon Court  
Camp Springs, Maryland 20748

By Order Nos. 1749, 2639, 3233, and 3672 of the Washington Metropolitan Area Transit Commission issued September 16, 1977; December 11, 1984; September 23, 1988; and April 11, 1991, respectively;

WHEREAS, the above-named carrier is entitled to receive authority to transport passengers within the Washington Metropolitan Area Transit District;

THIS CERTIFICATE OF AUTHORITY is hereby issued to the said carrier as evidence of the authority to engage in the for-hire transportation of passengers by motor vehicle; subject, however, to such terms, conditions, and limitations as are now, or may hereafter be, attached to the exercise of the privilege granted to the said carrier:

IRREGULAR ROUTES, transporting passengers between points in the Washington Metropolitan Area Transit District;

RESTRICTED TO (1) operations conducted according to the said carrier's applicable tariff on file with the Commission and (2) transportation in vehicles with a manufacturer's designed seating capacity of 15 or fewer persons, including the driver;

RESTRICTED AGAINST (1) transportation solely within the Commonwealth of Virginia and (2) any passenger transportation for hire on an individual fare paying basis in competition with any existing, scheduled, regular route, passenger transportation service performed by, or under a contract with, the Federal Government, a signatory to the Compact, a political subdivision of a signatory, or the Washington Metropolitan Area Transit Authority.

THIS CERTIFICATE OF AUTHORITY DOES NOT AUTHORIZE ANY TRANSPORTATION BY ANY PERSON OTHER THAN THE CARRIER NAMED HEREON.

THIS CERTIFICATE OF AUTHORITY IS NOT VALID UNLESS THE CARRIER NAMED HEREON IS IN COMPLIANCE WITH THE INSURANCE REQUIREMENTS OF THE COMMISSION.